HON'BLE THE CHIEF JUSTICE SRI G.S. SINGHVI

Writ Petition No.16648 of 1995

Between:

Sri Sri Satya Pramoda Thirtha Swamuluvaru,

Head of the Uttaradi Mutt rep. by his Power of Attorney Agent

Sri M.V. Ramanacharya. … Petitioner

And

III Additional District Judge, Kakinada

And two others.

… Respondents

:: ORDER::

Counsel for Petitioners : Sri M. Krishnamohan Rao

Counsel for Respondents : None.

December 14, 2005

This is a petition for quashing orders dated 28-7-1989 and 24-1-1995 passed by Munsif Magistrate-cum-Special Officer under A.P. (Andhra Area) Tenancy Act, 1956 (for short 'the Tenancy Act') and III Additional District Judge, Kakinada respectively in A.T.C.No.43 of 1981 and A.T.A.No.46 of 1989.

A perusal of the record shows that the petition filed by the petitioner under Section 6 of the Tenancy Act for fixation of fair rent was dismissed by Munsif Magistrate-cum-Special Officer on the ground that the proceedings of grant of patta were pending before the competent Revenue Court. This was confirmed by III Additional District Judge while dismissing the appeal filed against order dated 28-7-1989.

At the hearing, learned counsel for the petitioner produced copy of order dated 16-10-2003 passed by Commissioner, Appeals by which he granted ryotwari patta to the petitioner.

Learned counsel for the petitioner submits that in view of this development, the Court may set aside the impugned orders and remand the case to Munsif Magistrate-cum-Special Officer for fresh adjudication of the petition filed by his

client under Section 6 of the Tenancy Act. In support of this submission, learned counsel referred to orders dated
17-1-2005 and 24-1-2005 passed by two learned Single Judges in Writ Petition Nos.16712 of 1995 and 16716 of 1995 respectively.

I have carefully perused the record including the orders produced by the learned counsel today in the Court. Since two coordinate Benches have remanded the case to the original authority i.e., Munsif Magistrate-cum-Special Officer for fresh adjudication of the petition filed by the petitioners in those cases for determination of fair rent, I deem it proper to allow this petition and quash the orders under challenge. Ordered accordingly.

The case is remanded to Munsif Magistrate-cum-Special Officer under the A.P. (Andhra Area) Tenancy Act, Tuni for fresh adjudication of the petition filed by the petitioner under Section 6 of the Tenancy Act. Needless to say that the authority concerned shall issue notice to the parties and decide the matter after giving them reasonable opportunity of hearing.

G.S. SINGHVI, CJ

December 14, 2005

svs